GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Labour Employment Training & Factories Department – Insurance Medical Services - Grant of Exemption from the purview of Employees State Insurance Act, 1948 to the Nizam Sugars Limited, Hyderabad to their distillery Unit at Chagallu Distillery Unit, West Godavari District – Rejected – Orders – Issued.

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LABOUR EMPLOYMENT TRAINING & FACTORIES (IMS&VIG) DEPARTMENT

G.O.RT.No. 191 **Dated: 11-03-2016**

Read the following:-

1) From the GM, The Nizam Sugars Limited, Hyd., Lr.Ref.No.NSL/ EST/ G-36/5715, Dt.19-07-2002.
2) Govt.Lr.No.16490/Q2/2002, Dt.08-08-2002 addressed to the RD, Regnl. Office, ESIC, Hyd.,& letter even No.Dt.27-10-2003, 6-5-2004, 3-4-2006.
3) From the GM, Nizam Sugars Limited, Lr.Ref.No.NSL/EST/252, Dt.21-04-2006.
4) Govt.Lr.No.16490/IMS-2/2002-5, Dt.31-5-2006 and letter even No.Dt.3-9-2007, 07-01-2008.
5) From the GM, Nizam Sugars Limited, Lr.Ref.No.NSL/EST/368, Dt.13-07-2010.
6) Govt.Lr.No.16490/IMS-2/2002-5, Dt.01-11-2010 and Lr.Even No. Dt.13-4-2011.
7) From the GM, Nizam Sugars Limited, Lr.Ref.No.NSL/EST/123, Dt.27-08-2012.
8) Govt.Lr.No.16490/IMS-2/2002, Dt.17-19-2012.
9) From the GM, Nizam Sugars Limited, Lr.Ref.No.NSL/EST/31, Dt.24-01-2013 & 26-11-2014.
10) Govt.Lr.No.16490/IMS-2/2011, Dt.04-12-2014 addressed to RD, ESIC, Hyd., u/c to DIMS, AP, Hyd.
11) Govt.Memo No.16490/IMS&VIG/2002, Dt 04-08-2015.
12) From the Dir,IMS,AP,Hyd., Lr.Rc.No.5447/PLG/2011, Dt.27-11-2015.

x-x-x

ORDER :

The General Manager, The Nizam Sugars Limited, Hyderabad in the letter 1st read above has informed that they have requested ESI authorities for exemption of their Distillery unit located at Chagallu under the provisions of ESI Act and they were informed to approach the Government for exemption from the purview of ESI Act. They have further informed that the Nizam Sugars Limited is a Government company , Public Sector undertaking and is having (5) sugar units and (2) distilleries located at different places and implementing medical facilities to their workmen. The Sugar Industry being a seasonal industry it works only for 4 to 5 months in a year and all the personnel working in the company are transferable from one unit to another unit. Seasonal Industries are exempted from the provisions of ESI Act under section 1(3) sub-section (4). The accumulated loss of the company as on 30-09-2000 exceeds its net worth thereby becoming a sick company under BIFR provisions. Now their distillery unit at Chagallu, West Godavari District was purchased by M/s.Jeypore Sugar Company Ltd., Chagallu and the same was handed over to them on 8-7-2001.

2. It was further informed that they have been receiving notices from Recovery Officer, ESIC, Andhra Pradesh Region, Hyderabad towards payment of ESI dues asking Nizam Sugars to pay an amount of Rs.12,56,281/- for the period from 9/95 to 9/99. As they have already sold the unit and all the business affairs and records have been handed over to M/s.Jeypore Sugar Company Limited, Chagallu, they have requested to exempt Nizam Sugar's Limited, Distillery Unit, Chagallu for payment of old ESI dues pertaining to the period prior to take over the management by M/s.Jeypore Sugar Company Limited, Chagallu. They have therefore, requested to consider for exemption to their Chagallu Distillery Unit, West Godavari District for payment of dues of pre-transfer period .

3. The Director, Insurance Medical Services, Andhra Pradesh, Hyderabad in his letter 12th read above has informed that the Standing Committee to examine the

exemption from ESI coverage issues was constituted and the Committee held its meeting on 18-11-2015 and submitted its report. The Nizam Sugar's Limited for exemption of M/s.Chagallu Distillary Unit, West Godavari District purchased by M/s.Jeypore Sugar Company Ltd., and handed over the by the Nizams Sugars Limited on 08-01-2001. On examining the application the Committee understand that Jeypore Sugar Company Limited, Chagallu Distillary unit have received notice from recovery officer, Regional Office, ESI Corporation, Hyderabad for payment of Rs.12,56,281 for the period from 30-09-1995 to 20-09-1999 towards ESIC dues. The Committee has since deliberated the issue and is the opinion that the grounds advanced by the applicant for exemption of payment dues does not stand the test of law as laid down under the provision of ESI Act, 1948. The recommendation of the Standing Committee on Exemptions are as follows :

> "On examining the application the committee understands that M/s.Jeypore Sugar Company Ltd., Chagallu Distillery Unit have received notice from Recovery Officer R.O, ESIC, Hyd., for payment of Rs.12,56,281/- for the period from 30-09-1995 to 30-09-1999 towards ESIC dues. It was claimed that M/s.Jeypore Sugar Company Ltd., has taken over the unit M/s.Chagallu Distillery unit w.e.f. 08-07-2001. As such request for exemption was made for the period from 30-09-1995 to 30-09-1999 which pertains to pre-transfer period. The committee has since deliberate the issue and is of the opinion that the grounds advanced by the applicant for exemption of payment of dues does not stand the test of law as laid down under provisions of the ESI Act, 1948.
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> Moreover as per amended provision U/s.91(A) of the ESI Act "any notification granting exemption U/s.87, 88, 99 or U/s.91 may be issued so as to take effect prospectively (w.e.f.01-06-2010) on such date as may be specified therein.
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> Therefore, as per the above findings exemption is not supposed to be granted retrospectively to M/s.Chagallu Distillery Unit, represented by the M/s.Nizam Sugars Ltd., for the period from 09/1995 to 09/1999 which has already lapsed and hence the committee unanimously recommends for rejection of the said application.

4. Government, after careful examination of the recommendations of the Standing Committee for Exemptions and under the provisions of Employees State Insurance Act, 1948 and under section 91-A as amended through the Employees State Insurance (Amendment) Act, 2010 (18 of 2010), Dt.24-5-2010, hereby reject the request of the Nizam Sugars Limited, Hyderabad for granting of exemption from the purview of ESI Act, 1948 to their distillery unit at Chagallu Distillery Unit, West Godavari District (handed over to M/s.Jeypore Sugars Limited) with retrospective period from 30-09-1995 to 30-09-1999.

5. The Director of Insurance Medical Services, Andhra Pradesh, Hyderabad is requested to take necessary action accordingly in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.ANANTHA RAMU,
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director of Insurance Medical Services, Andhra Pradesh, Hyderabad.
Copy to:
The Nizam Sugars Limited, 5-10-174, Shakar Bahvan, Fateh Maidan Road, Basheerbagh, Hyderabad – 500 004.
The Regional Director, ESIC, Regional Office, Adarsh Nagar, Hill Fort Road, Hyderabad.
Sf/Sc.

//Forwarded ::By order//

SECTION OFFICER